

§ 902.83

24 CFR Ch. IX (4-1-04 Edition)

or show that the events, occurrences, or conditions do not constitute non-compliance with the statute, regulation, or covenants or conditions to which the PHA is cited in the notification.

(3) *Waiver of notification.* A PHA may waive, in writing, receipt of explicit notice from HUD as to a finding of substantial default, and voluntarily consent to a determination of substantial default. The PHA must concur on the existence of substantial default conditions which can be remedied by technical assistance, and the PHA shall provide HUD with written assurances that all deficiencies will be addressed by the PHA. HUD will then immediately proceed with interventions as provided in § 902.83.

(4) *Emergency situations.* In any situation determined to be an emergency, or in any case where the events or conditions precipitating the intervention are determined to be the result of criminal or fraudulent activity, the Secretary or the Secretary's designee is authorized to intercede to protect the residents' and HUD's interests by causing the proposed interventions to be implemented without further appeals or delays.

[65 FR 1738, Jan. 11, 2000, as amended at 65 FR 36046, June 6, 2000]

§ 902.83 Interventions.

(a) Interventions under this part (including an assumption of operating responsibilities) may be limited to one or more of a PHA's specific operational areas (*e.g.*, maintenance, modernization, occupancy, or financial management) or to a single development or a group of developments. Under this limited intervention procedure, HUD could select, or participate in the selection of, an AME to assume management responsibility for a specific development, a group of developments in a geographical area, or a specific operational area, while permitting the PHA to retain responsibility for all programs, operational areas, and developments not so designated.

(b) Upon determining that a substantial default exists under this part, HUD may initiate any interventions deemed necessary to maintain decent, safe, and

sanitary dwellings for residents. Such intervention may include:

(1) Providing technical assistance for existing PHA management staff;

(2) Selecting or participating in the selection of an AME to provide technical assistance or other services up to and including contract management of all or any part of the public housing developments administered by a PHA;

(3) Assuming possession and operational responsibility for all or any part of the public housing administered by a PHA;

(4) Entering into agreements, arrangements, and/or contracts for or on behalf of a PHA, or acting as the PHA, and expending or authorizing the expenditure of PHA funds, irrespective of the source of such funds, to remedy the events or conditions constituting the substantial default;

(5) The provision of intervention and assistance necessary to remedy emergency conditions;

(6) After the solicitation of competitive proposals, select an administrative receiver to manage and operate all or part of the PHA's housing; and

(7) Petition for the appointment of a receiver to any District Court of the United States or any court of the State in which real property of the PHA is located.

(c) The receiver is to conduct the affairs of the PHA in a manner consistent with statutory, regulatory, and contractual obligations of the PHA and in accordance with such additional terms and conditions that the court may provide and with section 6(j)(3)(C) of the Act.

(d) The appointment of a receiver pursuant to this section may be terminated upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(e) HUD may take the actions described in this part sequentially or simultaneously in any combination.

§ 902.85 Resident petitions for remedial action.

The total number of residents that petition HUD to take remedial action pursuant to sections 6(j)(3)(A) (i) through (iv) of the Act must equal at

least 20 percent of the residents, or the petition must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

PART 903—PUBLIC HOUSING AGENCY PLANS

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AUTHORITY. 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

SOURCE: 65 FR 81222, Dec. 22, 2000, unless otherwise noted.

Subpart A—Deconcentration of Poverty and Fair Housing in Program Admissions

§ 903.1 What is the purpose of this subpart?

The purpose of this subpart is to specify the process which a Public Housing Agency, as part of its annual planning process and development of an admissions policy, must follow in order to develop and apply a policy that provides for deconcentration of poverty and income mixing in certain public housing developments and to affirmatively further fair housing in admissions.

References to the “1937 Act” in this part refer to the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*)

§ 903.2 With respect to admissions, what must a PHA do to deconcentrate poverty in its developments and comply with fair housing requirements?

(a) *General.* The PHA's admission policy includes the PHA's policy designed to promote deconcentration of poverty and income mixing in accordance with section 16(a)(3)(B) of the 1937 Act (42 U.S.C. 1437n), which is submitted to HUD as part of the PHA Annual Plan process. Deconcentration of poverty and income mixing is promoted by a policy that provides for bringing higher income tenants into lower income developments and lower income tenants into higher income developments.

(1) The provisions of this section apply to applicants to and residents seeking voluntary transfers within covered public housing developments (“covered developments” as specified in paragraph (b) of this section).

(2) The statutory requirement to design a policy to provide for deconcentration and income mixing is not to be construed to impose or require any specific income or racial quotas for any development or developments.

(b) *Applicability of deconcentration of poverty and income mixing requirements.*

(1) *Developments subject to deconcentration of poverty and income mixing requirements.* The deconcentration requirements of this subpart apply to general occupancy,